

- SUBJECT:** Revising requirements for allocating general revenue for rail projects
- COMMITTEE:** Transportation — favorable, without amendment
- VOTE:** 11 ayes — Phillips, Darby, Bonnen, Y. Davis, Fletcher, Harper-Brown, Lavender, Martinez, McClendon, Pickett, Rodriguez
- 0 nays
- WITNESSES:** For — Joseph Black, Lone Star Rail District; Peter Le Cody, Texas Rail Advocates; (*Registered, but did not testify:* William Bingham, Joe Morris, Texas Rail Relocation and Improvement Association; Victor Boyer, San Antonio Mobility Coalition, Inc; Randy Cain, VIA Metro; Carlos Contreras, City of San Antonio; Thomas Guevara, Bexar County Commissioners Court; Paul Jimenez, San Antonio Hispanic Chamber of Commerce; Dennis Kearns, BNSF Railway; Donald Lee, Texas Conference of Urban Counties; Ross Milloy, Austin-San Antonio Corridor Council)
- Against — None
- On — John Barton, Texas Department of Transportation (TxDOT)
- BACKGROUND:** In 2005, Texas voters approved a constitutional amendment authorizing the creation of the Texas Rail Relocation and Improvement Fund within the state treasury. The amendment allowed the Texas Transportation Commission to administer a revolving fund to finance or partially fund relocation and improvement of privately and publicly owned passenger and freight rail facilities. The Legislature has yet to make appropriations to the fund.
- Transportation Code, sec. 91.071 prohibits TxDOT from spending general revenue funds for rail facilities unless the funds are spent pursuant to a line-item appropriation or the money is received from the Texas Economic Development Bank Fund.
- DIGEST:** HB 377 would allow TxDOT to spend general revenue funds on rail facilities without the need for a line-item appropriation if the funds were appropriated to the Texas Rail Relocation and Improvement Fund.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 377 would clarify a confusing provision in existing law that requires general revenue funds for rail projects to be a separate line-item appropriation unless those funds are received from the Texas Economic Development Bank Fund. The restriction, which was added at the last minute to a large transportation reform bill in a conference committee in 2005, could create an obstacle to using money for rail projects if the Legislature made an appropriation. TxDOT may interpret the unclear language, “pursuant to a line-item appropriation,” to mean that the Legislature must make a specific line-item appropriation for rail projects.

The bill would remove this unnecessary and unusual requirement and leave this appropriations decision to the Legislature, where it belongs. While the Texas Rail Relocation and Improvement Fund has yet to receive funding, it is important to ensure that no obstacles would be in place to prevent it. The bill would not reduce transparency, but only would give TxDOT more flexibility to spend funds for certain purposes as declared by the Legislature.

The bill would not restrict the governor’s line-item veto authority. The governor can veto any “items of appropriation,” which would include a rider that appropriated funds specifically for rail relocation.

**OPPONENTS
SAY:**

HB 377 is not necessary for funding rail projects through the Texas Rail Relocation and Improvement Fund. The Legislature under current law has the flexibility to appropriate funds in numerous ways that include existing strategies and that would satisfy statutory requirements. The bill could reduce transparency in the budgeting process by allowing funds for rail projects to be hidden within the budget. As such, these funds also could be partially shielded from the governor’s line-item veto, which would hinder an important constitutional check on the appropriations bill.